United Nations S/2005/518

Security Council

Distr.: General
10 August 2005

Original: English

Letter dated 8 August 2005 from the Acting Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to the Chairman's letter of 23 February 2005 (S/2005/119). The Counter-Terrorism Committee has received the attached fifth report from Brazil submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Ronaldo Mota **Sardenberg**
Acting Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

05-46285 (E) 150905

Annex

Letter dated 29 July 2005 from the Permanent Representative of Brazil to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In response to your letter dated 10 January 2005, I have the honour to enclose herewith the fifth report of the Brazilian Government to the Counter-Terrorism Committee, pursuant to paragraph 6 of resolution 1373 (2001) of the Security Council (see enclosure).

(*Signed*) Ronaldo Mota **Sardenberg**
Ambassador
Permanent Representative of Brazil to the United Nations

Enclosure*

Brazil: fifth report to the Counter-Terrorism Committee on the implementation of Security Council resolution 1373 (2001)

1. Implementation measures

Effectiveness in the protection of the financial system

1.1 The CTC takes positive note of the measures that Brazil has so far taken to enact legislation to prevent and suppress the financing of terrorism and ratify nine international conventions and protocols relating to terrorism. The CTC would however, be grateful to receive a copy of the amended Act 9613/98 and Act 7.170/83 which according to the third report (at page 3) criminalize the financing of terrorism.

See Annexes 1 and 2.

1.2 Subparagraph 3 (d) and (e) of the Resolution calls upon States to become parties to and implement fully the relevant conventions and protocols relating to terrorism. Brazil indicates in its fourth report (at page 19) that three conventions and protocols relating to terrorism are under consideration by the National Congress for approval before ratification. The CTC would be grateful to be kept abreast of the latest developments in this regard.

The Federal Government is committed to the prompt ratification of the three remaining Conventions to combat terrorism and is doing its utmost to promote their approval by the National Congress.

Brazil has issued a series of Executive Decrees to implement the relevant United Nations Security Council Resolutions by incorporating the text of the Resolutions into the domestic legal regime. In this manner, Decree 3976 of 18 October 2001 implements S/RES/1373(2001); Decree 3755 of 19 February 2001 implements S/RES/1333(2000); Decree 4150 of 6 March 2002 implements S/RES/1390(2002), and Decree 3267, of 30 November 1999 implements S/RES/1267(1999), and its successor resolutions. As provided by the resolutions, these Decrees provide for enforcing sanctions related to the Taliban and Osama bin Laden, including a specific list of designated persons and entities. Decree 3976 of 18 October 2001 implements the provisions of S/RES/1373(2001).

* Annexes are on file with the Secretariat and are available for consultation.

Following the usual procedure for consideration of multilateral treaties, the UN Convention on the Suppression of Terrorism Financing was approved by the Lower Chamber of the National Congress on February 2005. After that, members of the Council for Control of Financial Activities – COAF, the Brazilian FIU, paid a visit to the rapporteur and to the Chairman of the Senate's Commission of Foreign Relations and National Defense. As a result, it was also approved by the Brazilian Senate on June 2005. Its ratification is expected to occur in the near future.

The SUA Convention and its Protocol on fixed platforms are also following the normal procedure in Congress. The two instruments have gone through several commissions of the Lower Chamber, which approved them on July 2005. They will be submitted to the examination of the Senate. Their ratification is expected during the 2005 congressional session.

1.3 Subparagraph 3 (e) of the Resolution calls upon States to implement fully the relevant conventions and protocols relating to terrorism. Regarding effective implementation of Article 18 of the International Convention for the Suppression of the Financing of Terrorism, Brazil indicates in its fourth report (at page 11) that the ratification process of the convention is linked to the evaluation and suggestion of changes in the draft legislation that, inter alia, broadens the types of money laundering crimes and administrative measures for the freezing of assets. The CTC would be grateful to be informed of the enactment of legislation in this regard and to receive a copy thereof.

Brazil indicates that Law 9613 provides authority to freeze and seize the assets pertaining not only to suspected terrorists and terrorist organisations, but also to those who finance terrorism, irrespective of the inclusion of those persons and organisations in a list maintained by the UN Security Council.

As mentioned above, since Law 9613 establishes terrorism and (as amended) its financing as a predicate offence for money laundering, Brazilian courts have authority to freeze and seize, and confiscate the suspected "objects" of terrorism or terrorist financing offences. Article 4 indicates that "upon request made by the prosecutor or the competent police authority, after consulting the prosecutor within twenty-four hours, and with sufficient evidence, the judge may order the seizure or detention of assets, rights and other values that constitute the object of the crimes referred to in this Law, and which belong to the defendant or are registered under his/her name."

Brazilian competent authorities are also entitled to freeze and confiscate assets involved in the preparation or the actual perpetration of crimes described in Law 7170, of 14 December 1983, such as to "devastate, plunder, extort, steal, kidnap, keep in illegal prison, set on fire, depredate, provoke explosion, practice personal attacks or acts of terrorism, for political reasons or for obtaining funds destined to the maintaining of clandestine or subversive political organizations" (Article 20) or "constitute, integrate or maintain a military-like illegal organization, of any kind, armed or not, with or without uniform, with a fighting objective" (Article 24).

COAF has received several lists of individuals and entities that are either involved or suspected of involvement in terrorist activities. COAF has included these names in its database and has immediately disclosed that information to relevant governmental agencies, such as the Federal Police, the Secretariat for Federal Revenue, the Brazilian Agency of Intelligence, and the Central Bank, so that the appropriate measures could be adopted. In addition, COAF regularly checks the national register of legal entities (CNPJ) and the taxpayer identification database (CPF) in order to verify if wanted natural or legal persons have legally operated in Brazil. Likewise, the Central Bank of Brazil discloses the above mentioned information to all financial institutions, in order to check if suspects have been operating in the financial system, have banking accounts or possess other types of assets in the country.

Under "Goal 20 of the National Strategy to Combat Money Laundering" (ENCLA 2004) – see text below –, the Cabinet for Integrated Management and Combat against Money Laundering (GGI – LD) is drafting a new bill, which will modify Law 9618/98 (which criminalizes money laundering).

> ***Goal 20:*** *To evaluate and to suggest changes in the law projects that: broaden the types of the money laundering crimes in order to avoid the exhaustive list of antecedent crimes; introduce the administrative blockade of illicit assets; define criminal organization; typify the crimes of terrorism and terrorism financing; modify the Law 9613/98. The task force (consisting of representatives of AGU, COAF, DRCI, CJF, MPF, CGU and ABIN) must be responsible for accompanying the projects in the National Congress, electing as a goal their approval until October 2004. The task force must also accompany the approval of the international treaties signed by Brazil, which relate to anti-money laundering policies.*

Instead of criminalizing as money laundering only the revenues deriving, directly or indirectly, from certain predicated offenses (including the crime of terrorism), as defined under Law 9613/98, the new draft determines that the revenues deriving from any criminal offense encompassed in the Brazilian penal system that leads to a sentence of up to 2 years of imprisonment may be charged as money laundering.

The Brazilian authorities expect that such amendment will ensure significant progress in the combat against money laundering and expedite the recovery of assets illegally obtained or put into use for the preparation of crimes, such as terrorism. In addition, the draft also includes provisions for the aggravation of the penalty of the offender should the predicated crime be committed by an international criminal organization.

1.4 The effective implementation of subparagraph 1 (a) of the Resolution requires financial institutions and other intermediaries to identify their clients and to report suspicious transactions to the competent authorities. The CTC is grateful for the detailed report on suspicious transactions (at page 13) of the fourth report. Brazil indicated (at page 14 of the fourth report), that the number of suspicious financial transaction reports (STRs) that resulted in investigations, prosecutions or convictions, would be **provide by 31 October 2004**. The CTC would further be grateful to receive such information in Brazil's next report.

The statistics for the period 1998 - December 2004 are the following:

REPORTS RECEIVED BY COAF	1998 / 2002	2003	2004	TOTAL
1 – SUSPICIOUS TRANSACTIONS				
1.1 – Sectors regulated by COAF				
Bingos	2.454	19	7	2.480
Commodities exchanges	1	0	0	1
Credit and debit cards	101	88	4	193
Real estate (purchase and sale)	2.287	619	630	3.536
Factoring	84	1	27	112
Jewelry, precious stones and metals dealers	9	0	1	10
Lotteries	382	140	84	606
Objects of art and antiques dealers	1	1	2	4
Money transference	1	1	0	2
Subtotal	**5.320**	**869**	**755**	**6.944**
1.2 – Sectors regulated by specific institutions				
Financial system (Central Bank)	12.096	5.405	7.086	24.587
Insurance (Superintendency of Private Insurance – SUSEP)	275	879	1.169	2.323
Bolsa (Securities and Exchange Commission of Brazil - CVM)	19	13	12	44
Pension Funds (Office of Complementary Welfare –SPC, from the Ministry of Social Welfare)	9	2	28	39
Subtotal	**12.399**	**6.299**	**8.295**	**26.993**
TOTAL	**17719**	**7168**	**9050**	**33937**

Regarding currency transaction report, Central Bank Circular Letter 3098, from June 11th, 2003, established these obligations for financial institutions (banking and non-banking financial institutions).

Item III of section 1 and 2 of Circular 2852/98 of the Central Bank provides that financial institutions are obliged to register in the Central Bank Information System the following:

I – deposits and withdrawals in cash or the provisioning of withdrawals equal or higher than R$ 100.000,00 (one hundred thousand Reais), regardless of any analysis or providence, with the register being done in the date of the deposit, withdrawal or the request of provision for withdrawal;

II – deposits and withdrawals in cash or request of provision for withdrawals of values lower than R$ 100.000,00 (one hundred thousand Reais), that may represent serious indications of concealment or dissimulation of nature, origin, localization, disposition, movement, or property of assets, rights and other values, in accordance with Section 2 of Circular 2852/98 .The latest reports on suspicious transactions are listed below.

	1998 / 2002	2003	2004	TOTAL
CASH TRANSACTIONS (Central Bank)	—	33.358	76.102	109.460

Regarding requests for assistance received by COAF, from domestic authorities, taking into consideration the period between 2003 and 2004, the number totals 1409. It must be pointed out that after the implementation of the System of Information Request – SISPED, in 2003, by COAF, the request of assistance increased approximately 100%. All the requests received by COAF have been responded to within a reasonable period of time.

Law 9613/98 determines that COAF shall notify the competent authorities whenever it finds evidence of the crimes defined in this Law or of any other illicit activity, so that the appropriate legal measures can be adopted. In accordance with that determination, COAF forwarded 336 reports to the competent authorities in 2004.

Regarding the exchange of information with foreign FIU or pertinent authorities of other countries, Decree 2799/98 establishes that COAF may share information with relevant authorities of foreign countries and international organizations based on reciprocity or on bilateral and multilateral agreements. As member of the Egmont Group, COAF is also entitled to exchange information with other financial intelligence units.

Exchange of Information (International)	1998 (99)	2000	2001	2002	2003	2004	TOTAL
Requested by foreign FIU	21	17	43	77	70	74	302
Requested by other authorities	1	2	2	13	10	1	38
Total provided by COAF	22	19	45	90	80	75	340
Requested by COAF	4	34	46	57	96	137	394

A detailed research is currently being carried out within all the states of the Brazilian federation in order to compile statistical data from the various states, regarding the number of investigations, prosecutions, convictions, acquittals and sentences related to money laundering crimes, both on the federal and state level. A simultaneous project is being implemented by the Asset Recovery and International Mutual Legal Cooperation Department (DRCI), with a view to verifying the effectiveness of the National Strategy of Combat against Money Laundering (ENCLA), through the collection of statistical data from the Judiciary regarding the number of investigations, prosecutions and convictions specifically involving money laundering offenses. It will be possible, from the analysis of the obtained results, to assess the concrete results of ENCLA, whose Goal 17 foresees the publication of monthly statistics on the issue.

> ***Goal 17:*** *To publish, in coordination with the MPF, PF, DRCI, and State Courts of Justice, monthly statistics on the number of investigations, criminal procedures, convictions, acquittals and the amounts involved in the judicial sentences related to the crime of money laundering, on both federal and state levels. This information must be organized by geographical areas.*

According to Section 10 of Law 9613 of March 3, 1998, financial and non-financial institutions covered under Section 9 of the Law shall identify their customers and maintain updated records in compliance with the provisions set forth by competent authorities' requirements for the identification of customers and record-keeping.

Section 11 establishes that legal entities subject to the obligations of the Law:

"I. Shall pay special attention to any transaction that, in view of the provisions set forth by the competent authorities, may represent serious indications of or be related to the crimes referred to in this law;

II. Shall report to the competent authorities, within twenty-four hours, abstaining from informing their customers of this reporting:

a) All transactions listed in item II of article 10 that involve an amount that exceeds the fixed limit, to this end, by the same authority and in the form and conditions set forth by that authority, being mandatory the presentation of the identification referred to in item I of that same article;

b) The proposal or the execution of a transaction referred to in item I of this article.

Paragraph 1: The competent authorities referred to in item I hereof shall establish a list of transactions that could characterize the kind of operations mentioned herein, in regard to their basic features, the parties and amounts involved, the implementation, the means of execution, or the lack of economic or legal grounds for them."

According to Section 9 of the same law, those obligations shall apply to any legal entity that engages on a permanent or temporary basis, as a principal or secondary activity, together or separately, in any of the following activities:

"I. The reception, brokerage, and investment of third parties' funds in Brazilian or foreign currency;

II. The purchase and sale of foreign currency or gold as a financial asset;

III. The custody, issuance, distribution, clearing, negotiation, brokerage or management of securities;

Sole paragraph - The same obligations shall apply to the following:

I. Stock, commodities, and future exchanges;

II. Insurance companies, insurance brokers, and institutions involved with private pension plans or social security;

III. Payment or credit card administrators and consortium (consumer funds commonly held and managed for the acquisition of consumer goods);

IV. Administrators or companies that use cards or any other electronic, magnetic or similar means, that allow fund transfers;

V. Companies that engage in leasing and factoring activities;

VI. Companies that distribute any kind of property (including cash, real estate, and goods) or services, or give discounts for the acquisition of such property or services by means of lotteries or similar methods;

VII. Branches or representatives of foreign entities that engage in any of the activities referred to in this article, which take place in Brazil, even if occasionally;

VIII. All other legal entities engaged in the performance of activities that are dependent upon ar authorization from the agencies that regulate the stock, exchange, financial, and insurance markets;

IX. All Brazilian or foreign individuals and entities, which operate in Brazil in the capacity of agents, managers, representatives or proxies, commission agents, or represent in any other way the interests of foreign legal entities that engage in any of the activities referred to in this article;

X. Legal entities that engage in activities pertaining to real estate, including the promotion, purchase and sale of properties;

XI. Individuals or legal entities that engage in the commerce of jewelry, precious stones and metals, works of art, and antiques;

XII. Individuals or legal entities that trade luxurious goods or those with high prices or that perform activities that involve great amounts in cash."

The Brazilian Central Bank has issued several regulations on this issue that are being implemented by financial institutions (FIs) under its supervision. Previously to the enactment of Law 9613, Central Bank has issued resolution 2025 of November 24, 1993, amended by Resolution 2747, of June 28, 2000, setting minimum identification requirements for opening deposit accounts. These requirements include information such as: the customer's name, address, occupation, nationality, identity card, taxpayer identification number (CPF), in the case of natural persons, and the legal name, main

activity, address and legal entities national register number (CNPJ) in the case of legal entities. Customer identification requirements for legal entities include the individuals who are legally authorized to represent them, as well as their owners.

Circular 3006 of the Central Bank, of September 5, 2000 established that FIs must check the status of account owners or their representatives in the Taxpayer Identification Register during the account opening process.

According to Circular 2852 of the Central Bank, of December 3, 1998, financial institutions and other institutions authorized to operate by Central Bank shall maintain updated records of their respective customers and consolidated internal controls and records that make it possible to verify not only the precise customer identification, but also the compatibility among the respective customer's fund transfers, economic activity and financial standing.

Other rules issued by Central Bank have established identification procedures for payment and receipt of cash transactions (Resolution 1946 of July 29, 1992), holding of banking accounts by non-resident clients (Circular 2677 of the Central Bank, of April 10, 1996), opening and transacting on deposit accounts through electronic means including through the internet (Resolution 2817, of February 22, 2001), check transactions and other instruments for transfer of funds (Circular Central Bank 3030, of April 12, 2001) and foreign exchange transactions (Foreign Exchange Rules Consolidation - CNC).

The identification of clients should take place by the time a business relationship is established. With that end, the presentation of appropriate original documentation and written confirmation by authorized bank staff are legally required. The law also requires the identification of the persons whenever the financial institutions have reasons to believe that a suspicious transaction involving money laundering is being executed or when there is reason to suspect that the identification procedures are being circumvented by the client or prospective client.

Non-resident clients have similar identification requirements as domestic clients and require copies of documents presented as identification to be certified by a public notary or a Brazilian Embassy official abroad.

Law 9613 requires records to be kept in a manner and form that allows financial institutions to readily and speedily reproduce the records, information or documents in usable form.

Law 8021, of April 12, 1990, requires that every owner or beneficiary of shares, securities or any kind of deposit or financial investment must be properly identified.

Section 64 of Law 8383, of December 30, 1991, establishes that account managers and other FIs employees shall be charged for allowing accounts opening or funds transfers carried out by non-existent natural persons or legal entities, or customers with fictitious names.

The Central Bank is entitled to access financial institutions' internal control document and verify the compliance with the identification and due diligence requirements during the course of its onsite examinations program.

Numbered accounts are not allowed in the Brazilian Financial System.

Effectiveness of customs, immigration and border control

1.5 The effective implementation of subparagraph 2 (g) of the Resolution requires that borders be efficiently controlled in order to prevent the movement of terrorists or terrorist groups. With a view to achieving this efficiency, has Brazil put in place a unified data system for use at all entry or exit points? If such is not the case, how many entry or exit points, whether by air, land, or sea, are currently included in the existing data system. Does Brazil's system register traveler data immediately upon entry or exit, or is this data entered later?

Brazil has in place a unified data system for use at all entry or exit points, named "SINTI" - National System for International Movement, which is on-line and available in the whole national territory. However, the data is not immediately registered upon entry or exit: this work is done at a later stage. Every foreigner, upon entering the national territory, must present the Card for Entrance / Exit properly filled out together with his/her travel document. Such Card has two parts; one stays with the Brazilian Federal Police Department at the entrance point, the other stays with the foreigner during his/her stay. Upon entering the national territory, whether by land, air or sea, the data from the Card is compared with that of the Passport - or of the identity

card, required for citizens from MERCOSUR countries - by the migration agent at the point of control. Soon after, the Card is sent for typing and the foreigner's data is inserted in the SINTI. The information inserted includes: name, gender, date of birth, nationality, country of residence and of origin, number and type of the travel document, place and way of entry (air, land or sea), classification of the purpose of the travel (businesses, tourism, etc.), and granted period for stay in Brazil.

1.6 If "traveler data systems" are maintained at all border points, do these systems incorporate information of a 'watch list' nature? If such is the case, is the information in question updated regularly, taking into account all the relevant sources?

SINPI - National System for Wanted or Impeded Persons (interlinked to SINTI) includes a List of Wanted and Impeded Persons, Open Arrest Orders and lists of persons impeded from leaving Brazil, among others. Both SINPI and SINTI are online and available in the whole national territory. SINPI is regularly updated and fed by information coming from every part of the national territory.

1.7 Regarding the effective control of the issue of identity papers and travel documents referred to in subparagraph 2 (g) of the Resolution, does Brazil issue national identity documents? If so, who is entitled to receive the document? Could Brazil also provide the CTC with information as to the type of data stored and the agencies with which such information is shared?

Yes, Brazil issues national identity documents (identity cards and passport for Brazilian nationals and the identity document for foreigners). Any Brazilian citizen is entitled to receive the document, provided he/she has fulfilled civil and military obligations and provided there is no judiciary order to the contrary.

Local institutes of identification issue identity documents, which have validity all over Brazil. The issuing agencies keep in file the data of the qualification, photography and fingerprints of the people. The data kept in official files, in the issuing agencies, can be shared with other official institutions, by request, only for government affairs.

1.8 Does Brazil allow for the routine entry into, or exit out of, its territory by its nationals or by nationals from other States on production of a national identity card (as opposed to a passport)?

Brazil allows only for nationals of MERCOSUR countries (Argentina, Paraguay, Uruguay and Chile), the use of identity document, instead of the passport, for the entry and exit of its territory.

1.9 Furthermore, the CTC would be grateful if Brazil could specify the contact points it has established for international cooperation to combat terrorism and their respective areas of responsibility.

**** General-Coordination of Combat against Transnational Crime (COCIT), of the Ministry of External Relations*** *– its areas of responsibility are: coordination of international cooperation activities among Brazilian governmental institutions and their foreign counterparts in the areas of drug demand and supply reduction; coordination of the Brazilian participation in international events, in multilateral as well as in bilateral forums, which regard the combat against organized crime, under all its forms, including drug trafficking and connected crimes, money laundering, corruption and terrorism.*

**** Brazilian Intelligence Agency (ABIN), of the Institutional Security Cabinet of the Presidency of the Republic*** *– its areas of responsibility are: planning, coordinating, supervising and controlling counter-terrorist activities; following the activities of foreign terrorist and insurgency groups, as well as verifying whether there are links in Brazil; elaborate strategic reports about the development of international terrorism and its consequences for the country, identifying weaknesses of the state mechanisms; keeping a constant flow of terrorism-related information; and capacity-building.*

**** Council for Financial Activities Control (COAF), of the Ministry of Finance*** *- its areas of responsibility are: checking whether any suspected person or legal entity which has operated in the financial system or holds accounts or any other kind of assets.*

**** Assets Recovery and International Mutual Legal Cooperation Department (DRCI), of the Ministry of Justice*** *- its areas of responsibility are: Asset Recovery and International Judicial Cooperation.*

The Brazilian Government, through its Chamber of External Relations and National Defense of the Council of Government (CREDEN), the highest body within the Federal Government for policy coordination and implementation, has created a

Technical Group (GT) which will be in charge of the National Policy for Prevention of and Combat against Terrorism.

The mission of the group is to elaborate proposals not only for a national policy but also for establishing a framework for counterterrorism in Brazil. The members of the GT work under the coordination of the Brazilian Intelligence Agency. The GT comprises representatives from the Institutional Security Office of the Presidency, the Civil Household of the Presidency, the Ministry of Justice – National Office of Public Security and Department of Federal Police –, the Ministry of External Relations – Coordination-General of Combat against Transnational Crime (COCIT) -, the Ministry of Defence – Army, Navy and Air Force Commands – and the Ministry of Finance.

The proposal for the National Policy for Prevention of and Combat against Terrorism shall be guided by the following principles:

- *safeguard the national institution and assets and society against terrorism in all its forms;*
- *develop a doctrine for combatting terrorism;*
- *propose and perfect specific legislation as well as contribute to the implementation of international decisions and documents regarding terrorism and its financing;*
- *coordinate the execution of preventive and repressive actions against terrorism; and*
- *promote actions to combat terrorism in accordance with the international agreements and initiatives about the subject matter.*

To fully implement the guidelines resulting from these goals, a National Authority for Prevention and Combat to Terrorism (ANPCT) shall be created. The ANPCT will be in charge of planning, coordinating and overseeing the preventive and reactive actions related to terrorist activities.

Control to prevent the supply of weapons to terrorists

1.10 The effective implementation of subparagraph 2 (a) of the Resolution requires States *inter alia* to eliminate the supply of weapons to terrorists. Brazil indicates in its fourth report (at page 31) that there is no legal impediment to sharing information with foreign counterparts to enable cooperation in dealing with illegal shipments of weapons. The CTC would be grateful to hear of measures in place in Brazil that allows

for the exchange of operational information with other neighbouring States, within the framework of bilateral and multilateral cooperation between administrative and security agencies, and in particular with regards to efforts to get rid of small arms and light weapons.

As indicated in the previous report, Brazil has no legal impediments to the sharing with appropriate foreign counterparts of information related to illegal flows of firearms. Brazil cooperates fully with the international community in order to fight this grave problem, especially – albeit not exclusively - by means of a series of multilateral, regional and bilateral initiatives.

Brazil is a Member State of the Inter-American Convention Against The Illicit Manufacturing Of And Trafficking In Firearms, Ammunition, Explosives, And Other Related Materials (also known as CIFTA) since August 1999. The Convention establishes that States-Parties "shall cooperate in the tracing of firearms, ammunition, explosives, and other related materials which may have been illicitly manufactured or trafficked. Such cooperation shall include accurate and prompt responses to trace requests". CIFTA Members shall also exchange relevant information on matters such as authorized producers, dealers, importers, exporters, and, whenever possible, carriers of firearms, ammunition, explosives, and other related materials. It also contains articles aimed at fostering the exchange of information useful to strengthen national criminal investigation procedures, such as those related to the schemes and tactics routinely used by firearms traffickers.

Moreover, Brazil and Argentina have signed a "Memorandum of Understanding on the Exchange of Information related to Firearms, Ammunitions and Explosives", which allows for an expedient and thorough flow of information of great use for public security forces of both countries.

Such initiative has been extended to the other members and associated States to the MERCOSUR Bloc, which are currently amidst the process of ratification of a Regional MoU, similar to the one signed by Brazil and Argentina.

In terms of bilateral initiatives, the Bilateral Anti-Narcotics Joint Committees held by Brazil with neighboring countries always include the discussion of measures related to cooperation in the fight against the illicit flow of small arms and light weapons.

1.11 The CTC notes that Brazil enacted Act 10826 of 2003 (page 27 of the fourth report) which lays down strict norms and regulations on registration, acquisition, possession, and commercialization of weapons mainly for individual use. The CTC would be grateful to receive an outline of this Act with particular reference to the provisions that deal with the following:

* What are the conditions that an applicant for a firearm must meet before a license to purchase a firearm could be issued;

* How many weapons of a particular type may be licensed to each individual;

* Does the licensing system allow for the transfer of licenses;

* How long is a license valid?

* Is there a mechanism to monitor expiry of the validity and/or the expiry of individual licenses?

* How is the authenticity or validity of a license to posses a firearm verified?

The conditions for acquisition of a firearm are the following:

- The applicant must declare his/her effective need;

- He/she must be at least twenty-five years old;

- The applicant must present an authenticated copy of his/her Identity Card;

- He/She must prove in the acquisition request and in every renewal of the registration, suitability and inexistence of police inquiry or criminal process, through certificates of criminal antecedents issued by the Federal, State, Military and Electoral Justice;

- He/She must present document supporting a lawful occupation and accurate residence;

- He/She must prove, in the acquisition request and in every registration renewal, the technical capacity for firearm handling attested by a shot instruction company duly registered in the Army Command, by an armament and shot instructor from the Armed Forces, Auxiliary Forces or from the board of the Federal Police; and

- He/She must prove psychological aptitude for firearm handling, attested in conclusive award issued by psychologist of the board of the Federal Police.

- *Every person may possess six firearms: two light, two long stripped and two long flat.*

- *The license to carry a firearm is personal and not transferable.*
- *The license is valid for three years and must be renewed after this period.*
- *Yes. It is foreseen a mechanism to monitor the expiry of the validity in the new project of the National System of Weapons - SINARM, created together with SERPRO.*

SINARM is a national system interlinked with every institution of the public security in the country, and can be accessed at any locality in Brazil. The safety of the information is credited mainly to the system.

United Nations S/2005/519

Security Council

Distr.: General
10 August 2005

Original: English

Letter dated 9 August 2005 from the Acting Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to the Chairman's letter of 3 May 2005 (S/2005/294). The Counter-Terrorism Committee has received the attached fourth report from Myanmar submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ronaldo Mota **Sardenberg**
Acting Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

05-45893 (E) 070905

Annex

Letter dated 9 August 2005 from the Permanent Representative of Myanmar to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

With reference to your letter dated 25 April 2005, I have the honour to transmit herewith the fourth report from the Government of the Union of Myanmar on measures that the Government is undertaking on the implementation of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Kyaw Tint Swe
Ambassador
Permanent Representative

Enclosure

Fourth report of the Union of Myanmar to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001)

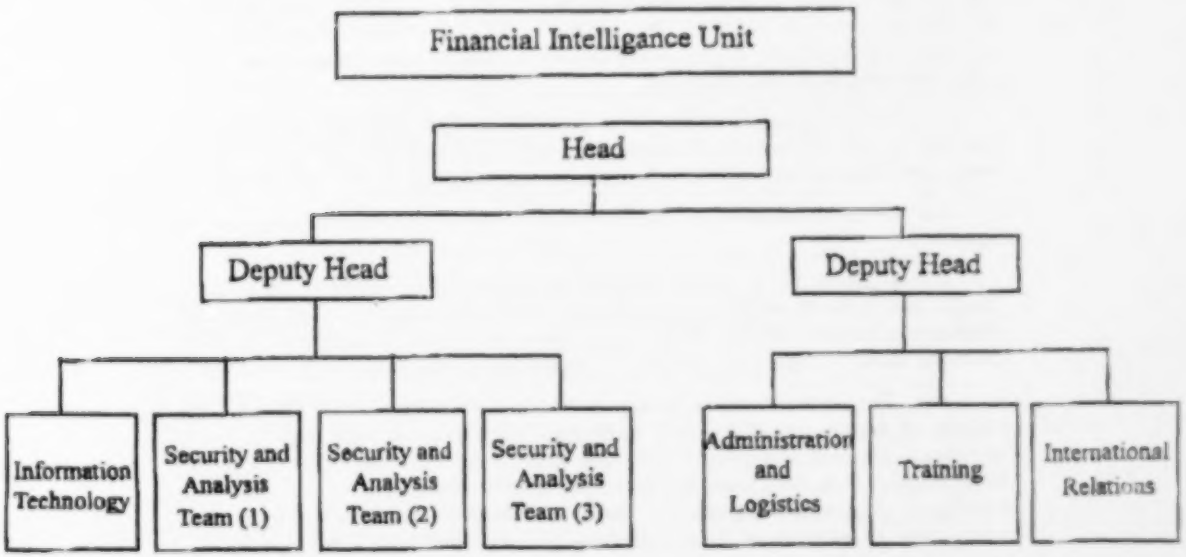
Response to the Communication received from the Counter-Terrorism Committee, dated 25 April 2005

Effectiveness in the protection of financial systems

Implementation measures

1.1 The Financial Intelligence Unit (FIU) was established by the CCB Order No. 3/2004 dated 16 January 2004 with staff of thirty.

Organization Chart of FIU



Functions and duties of FIU

(a) With respect to matters on exchange of information relating to money and property obtained by illegal means, liaising mutually with international organizations, regional organizations and neighbouring countries;

(b) With respect to matters to be carried out by the banks and financial institutions, reporting to the Central Control Board, if no report has been made, on matters that are to be investigated and reported, or if unusual or suspicious information is received;

(c) Reporting to the Central Control Board, if information has been received on illegal financial transactions from sources other than the banks and financial institutions;

(d) Reporting to the Central Control Board, if responsible persons of the Department of Settlements and Land Records and State, Divisional, District and Township Land Records Offices and Registration Offices subordinate to it, fail to give information, after undertaking intelligence measures under section 20 of the Law on the registration of documents relating to the transfer of immovable property, or obtaining information that is unusual or suspicious;

(e) Reporting to the Central Control Board, if responsible persons from relevant government department and organization fail to report on matters that are to be reported or FIU obtains the unusual and suspicious information after investigation relating to money which has been brought in or brought out by any person entering or leaving Myanmar;

(f) Advising and submitting to the Central Control Board on the conduct of training courses to increase technical expertise for responsible persons from the banks and financial institutions, and government departments and organizations;

(g) Sharing information on terrorists and terrorist organizations with relevant agencies.

1.2 Through May 2005, a total of 6,663 large transactions including 60 Property Transaction Reports (PTRs) were filed with FIU, in which 14 are Suspicious Transaction Reports (STRs). These filings have led to four investigation cases for potential Money Laundering. Progress on these cases is as follows:

(a) The case code name **Soesan Zone Operation**. The case is related to the seizure of heroin owned by drug trafficking ring. Seizure order was issued to confiscate the cash and property of drug dealers and their associates. After due investigation, it is found that the offenders clearly committed money laundering relating to drug trafficking offence. Eleven offenders (including 6 fugitives) were prosecuted on account of drug trafficking and punished with death penalty and prison term of 25 years. The money and property seized temporarily as exhibits have been confiscated.

(b) A bank reported a suspicious transaction case to the CCB, which involves remitting 3 to 4 transactions within a day totalling more than threshold amount of 100 million kyats by a gems trading company-Gold Uni. According to due investigation, it is found that the money remittance made by the gems trading company is obtained by legal means and that the money laundering offence is not committed. Case is already closed.

(c) Two property transaction cases were reported to the CCB by the Department of Settlement and Land Record upon finding these transactions were registered under value by the clients. Due to investigation, it was found that the clients have committed tax evasion and intelligence information has been transferred to the Internal Revenue Department to take necessary action. Internal Revenue Department has taken action on the offenders under the Union of Myanmar Tax Law.

1.3 Under the provisions of the Control of Money Laundering Law and its Rules, the banks and financial institutions have the obligation to exercise the "Know your Customer" Policy for customer identification with respect to individuals and corporate entities. Banks are required:

- to obtain satisfactory evidence of legal existence of persons or entities applying to open an account. Personal customer information includes name, address, phone number (if any), date of birth, occupation, citizen scrutiny card number or national registration certificate number, in the case of foreigner, foreigners registration certificate number and if the foreigner is residing abroad, the nationality, passport number and visa number of the person. With respect to business entities applicants, relevant documents such as Certificate of Incorporation, Articles and Memorandum of Association, Agreed Minutes of Board of Directors and Certified Application Form containing specimen signatures of Directors concerned;

- to inspect and scrutinize necessary evidence and documents in carrying out customer due diligence. If data is found to be incorrect or if it is suspected that a false name has been used, banks shall discontinue the account and inform the Central Bank and authorities concerned;

- to keep financial transaction records and related documents for at least a period of five years.

Furthermore, the Central Bank of Myanmar has issued a Directive dated 30 January 2004, instructing the Banks and Financial Institutions that opening of new customer's account must be properly introduced by two customers with existing accounts at the bank.

1.4 Pursuant to UNSC resolution 1373 (2001), all banks and financial institutions in Myanmar have been instructed by the Central Bank of Myanmar's Directive No. 2/2002 to freeze the funds and other assets of and prohibit transactions with suspected terrorists and terrorist organizations. The Central Bank of Myanmar distributes UN list of terrorists and terrorist organizations received through the Ministry of Foreign Affairs to the banks and financial institutions to make serious and thorough scrutiny to ensure that they are not keeping the accounts of the terrorists and terrorist organizations. So far, according to the reports submitted by the banks, no accounts in the names of the individual and entities linked to terrorism have been discovered. Banks are also instructed to continue identifying and reporting suspicious transactions to prevent the opening of accounts by terrorists and their associates, in Myanmar.

1.5 Non-Profit Organizations including charitable and religious associations are required to register as legal entities with the approval of the relevant Ministry. Accounts of those Non Profit Organizations are treated the same way as other clients' accounts. Under the Customer Due Diligence procedures, banks prepare and

record customers' profiles and financial transactions in respect of account opening, depositing, withdrawing and transferring of money. If any unusual or suspicious transactions are detected, banks have the obligation to report to the Central Control Board and to send a copy to the Central Bank. Compliance officers designated by banks are responsible for firmly exercising Customer Due Diligence procedures and reporting suspicious and unusual transactions in order to prevent money-laundering through their institutions.

1.6 Only State-owned banks are allowed to deal in foreign exchange business including external remittances. Moreover, existing foreign exchange regulations do not permit any individuals or business entities to make external remittance except for normal trade and investment purposes.

With respect to internal and external remittances by telegraphic transfer or demand draft, the Central Bank of Myanmar's Directive dated 30 January 2004 requires the banks and financial institutions to fill in the prescribed form and verify the profile of both remitter and beneficiary (payee) with name, national registration card number or passport number, full address as well as the purpose of remittance.

Effectiveness of counter-terrorism

1.7 After the submission of its third report, Myanmar has acceded to the Convention on the Marking of Plastic Explosives for the Purpose of Detection on 1 September 2004, in addition to the two conventions to which Myanmar acceded on 4 June 2004. Myanmar is therefore party to 10 international instruments relating to terrorism.

Regarding the International Convention for the Suppression of the Financing of Terrorism, which is already signed by Myanmar, ratification will take place after domestic processes are completed. Myanmar is also studying the remaining Convention to which Myanmar is not yet a party, with a view to considering eventual accession.

1.8 The Myanmar FIU and Central Committee for Drugs Abuse Control have exchanged financial intelligence on a number of issues regarding drugs trafficking, transnational crime, drugs related money laundering with the following agencies, regions and countries;

(1)	Australian Federal Police (AFP)	4 times
(2)	Drugs Enforcement Administration (DEA)	12 times
(3)	Hong Kong Special Administrative Region, P. R. China	2 times
(4)	India	2 times
(5)	Thailand	5 times
(6)	Taiwan Province, P. R. China	1 time
(7)	Singapore	1 time
(8)	People's Republic of China	5 times

Effectiveness of customs, immigration and border controls

1.9 With a view to preventing and suppressing the financing of terrorist activities, Myanmar Customs Department imposes control on the cross-border illegal movement of cash, negotiable instruments, precious stones and metals. The Customs Department collects the relevant information and takes necessary actions against those offences and reports to the higher authorities. There are four cases of precious stones seizure (approximate value 1.7 million Myanmar kyats), two cases of foreign currency seizures about US$ 184,200 from November 2004 to May 2005.

The CCB Order No. 4/2004 deals with cash couriers, was issued on 1 July 2004 and requires the responsible persons from the Customs Department and relevant government department and organization to report in respect of foreign currency brought in, imported into the country or carried and sent abroad from a seaport, airport or any border area or by money order by post, which exceeds the maximum threshold of US Dollar 10,000 or equivalent amount of any foreign currency.

1.10 The Customs Department has posted intelligence officers in the entry and exit points of the nation to collect intelligence, especially in the supervision of controlling restricted goods and to identify incoming or outgoing passengers, especially movement of terrorists, in cooperation with other law enforcement agencies. Intelligence officers have to submit their reports to Headquarters and the information is transmitted to the Ministry of Finance and Revenue.

Ministry of Immigration and Population circulates UN lists of terrorists and terrorist organizations received through the Ministry of Foreign Affairs to the State and Division Immigration Offices, border checkpoints, international airports and seaports to check the entry and exit of travellers against the list given to them.

1.11 Import or export of all goods in the border areas are released only after 100% examination. In order to identify the high-risk or low-risk consignments, the Customs Department carefully selects targets after tracing out the black-lists of companies, importers or exporters and customs clearance agents which are profiled according to customs offences.

Effectiveness of controls preventing access to weapons by terrorists

1.12 Firearms brokering is not the case in Myanmar. Exportation, importation, production and storage of arms and ammunitions are prohibited under the existing laws of Myanmar. For domestic security, particular or designated persons are allowed to possess or transfer firearms in accordance with chapter (3), paragraph (7) and (8) of the Arms Possession Regulation 1977. The Arms License and Permit Scrutiny Board formed with following persons is authorized to monitor and scrutinize for issuing license and permit;

(a)	Minister Ministry of Home Affairs	Chairman
(b)	Director General Myanmar Police Force	Member
(c)	Colonel (General Staff) Office of Chief of Staff (Army)	Member

(d)	Director General Department of General Administration	Member
(e)	Director Planning and Training Branch Myanmar Police Force (HQ)	Secretary

1.13 Please refer to para. 1.12.

1.14 Myanmar has the Mutual Assistance in Criminal Matters Law and its Rules. The aims of the law are *inter alia* as follows:

- to enable rendering of assistance in criminal matters in accordance with international conventions, regional agreements and agreements among States.
- to enable effective prevention and suppression of other serious crimes including terrorism, financing of terrorism, transnational organized crimes and crimes related to money laundering.